

Docket No. 566.32253CC8
Serial No. 10784.995
October 12, 2006

initiate a second internal erase operation of data within said other of said plurality of semiconductor memories while said one of said plurality of non-volatile semiconductor memories is still performing said first internal erase operation responsive to said first erase command.

The July 12, 2006 Final Office Action recognizes in the third paragraph on page 3 that the primary reference to Nishi (USP 5,724,544) fails to teach "initiating the second erase command while the first erase operation is still being performed in the first non-volatile memory." In addition, in this third paragraph on page 3 of the Office Action, it is also apparently recognized that Apperley (USP 5,664,145) fails to disclose this limitation regarding initiating the second erase command while the first erase command is still being performed in a first non-volatile memory. Instead, the Office Action simply refers to the general teaching of Apperley with the statement that:

"Apperley discloses running commands in parallel (col. 13, lines 24-29)."

Therefore, the Office Action goes on to state that this general teaching of Apperley regarding running commands in parallel would be sufficient to motivate one of ordinary skill in the art to modify the system of Nishi to perform erase operations in parallel in order to ensure minimum memory latency.

In response to this, applicants respectfully note that Apperley (USP 5,664,145) is not even directed to non-volatile semiconductor memories. Further, as noted above, Apperley does not provide any teachings with regard to timing for initiating internal erase operations of data for such non-volatile semiconductor memories to compensate for slow processing in such non-volatile memories. In short, the only actual motivation for making the substantial modifications to Nishi,

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which does use non-volatile memories, is the applicants' own teachings. MPEP 2143.01 clearly specifies that motivation to modify a reference "either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP 2143.01 goes on to note that the mere fact that the references could be combined or modified is not sufficient to establish prima facie obviousness. MPEP 2143.01 also notes that the "fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish prima facie obviousness."

With regard to the fundamental test set forth in MPEP 2143.01 that motivation must be found either explicitly or implicitly in the references themselves, this is clearly not the case in the present instance since the reference to Apperley, relied on for the modifications, teaches neither non-volatile semiconductor memories nor initiating a second erase command while a first erase operation is still being performed in a first non-volatile memory. Therefore, it is urged that the combination of Apperley and Nishi fails to meet the test required in MPEP 2143.01.

With regard to falling within common knowledge in the art, it is noted that MPEP 2144.03 states that such reliance should be rare and:

"Official notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known."

It is urged that initiating second erase commands for a second non-volatile memory while the first erase operation is still being performed in a first non-volatile memory certainly is not "capable of instant and unquestionable demonstration as being well known." Therefore, it is respectfully submitted that the combination and modification

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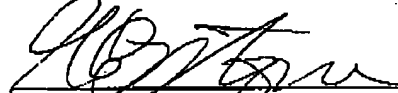
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proposed in the present rejection clearly fails to meet the requirements of either MPEP 2143.01 or 2144.03. Therefore, removal of this rejection, and allowance of this application is respectfully requested.

If the Examiner believes that there are any matters which can be resolved by way of either a personal or telephone interview, the Examiner is invited to contact Applicants' undersigned attorney at the number indicated below.

Applicants request any shortage or excess in fees in connection with the filing of this paper, including extension of time fees, and for which no other form of payment is offered, be charged or credited to Deposit Account No. 01-2135 (Case: 566.32253CC8).

Respectfully submitted,
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